SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 197

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

JOSEPH H. WILSON, DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF "COOPERATIVE BUYING SERVICE".

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

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1 In United States District Court for the Eastern District of Louisiana, Baton Rouge Division

UNITED STATES OF AMERICA

versus

JOSEPH H. WILSON, DOING BUSINESS UNDER THE TRADE NAME AND STYLE OF "COOPERATIVE BUYING SERVICE"

No. 1194 Criminal

APPEARANCES:

PHILIP B. PERLMAN,
Solicitor General,
JOHN N. MCKAY,
U. S. Attorney,
THOMAS C. WICKER, JR.,
Asst. U. S. Attorney,
Attorneys for Appellants

SAMUEL LANG, ESQ.,
H. L. MCKEEVER, ESQ.,
SUMTER D. MARKS, JR.,
Attorneys for Defendants-Appellees

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2 **Indictment for Violation of the "Jenkins Act"—Filed August 17, 1950**

[Title omitted]

(Vio. Public Law No. 363, 81st Congress, approved October 19, 1949)

The Grand Jury charges:

Count 1. That during the month of February 1950, one Joseph H. Wilson, doing business under the trade name and style of "Cooperative Buying Service" in the Town of Murphy, in the State of North Carolina, did sell and dispose of six (6) cartons of "Chesterfield" cigarettes in interstate commerce whereby said cigarettes were shipped by him from said Town and State to Robert E. Fremb, 4669 Arts Street, New Orleans, Louisiana; that during the month of February 1950, the State of Louisiana was a State taxing the sale and use of cigarettes, and the said Robert E. Fremb was not, during said month, a distributor of cigarettes licensed by or a distributor of cigarettes located in said State of Louisiana; that by reason of said sale, disposal and shipment of cigarettes the said Joseph H. Wilson was required, not later than

March 10, 1950, to forward to the tobacco tax administrator of the State of Louisiana, to-wit, the Collector of Revenue for the State of Louisiana, at Baton Rouge in said State and within the jurisdiction of this Court, a memorandum or copy of the invoice covering said shipment of cigarettes, stating the name and address of the person to whom said shipment was made and the brand and quantity of cigarettes shipped; and that the said Joseph H. Wilson did wilfully fail to forward said memorandum or copy of invoice to the said Collector of Revenue on March 10, 1950, or at any time prior thereto.

Count 2. That during the month of March 1950, one Joseph H. Wilson, doing business under the trade name and style of "Cooperative Buying Service" in the Town of Murphy, in the State of North Carolina, did sell and dispose of six (6) cartons of "Lucky Strike" cigarettes in interstate commerce whereby said cigarettes were shipped by him from said Town and State to Charles F. Rensch, 1527 Adams Street, New Orleans, Louisiana; that during the month of March 1950, the State of Louisiana was a State taxing the sale and use of cigarettes, and the said Charles F. Rensch was not, during said month, a distributor of cigarettes licensed by or a distributor of cigarettes located in said State of Louisiana; that by reason of said sale, disposal and shipment of cigarettes the said Joseph H. Wilson was required, not later than April 10, 1950, to forward to the tobacco tax administrator of the State of Louisiana, to-wit, the Collector of Revenue for the State of Louisiana at Baton Rouge in said State and within the jurisdiction of this Court, a memorandum or copy of the invoice covering said shipment of cigarettes, stating the name and address of the person to whom said shipment was made and the brand and quantity of cigarettes shipped; and that the said Joseph H. Wilson did wilfully fail to forward said memorandum or copy of invoice to the said Collector of Revenue on April 10, 1950, or at any time prior thereto.

Count 3. That during the month of April 1950, one Joseph H. Wilson, doing business under the trade name and style of "Cooperative Buying Service" in the Town of Murphy, in the State of North Carolina, did sell and dispose of cigarettes in interstate commerce whereby brands and quantities of cigarettes were shipped by him from said Town and State, to persons in the State of Louisiana at their respective places of residence, to-wit, as follows:

10 cartons of "Camel" cigarettes to Steve M. Carra, 5760 Vicksburg Street, New Orleans, Louisiana;

10 cartons of "Raleigh" cigarettes to Chester A. Brown, 938 Jordan Avenue, New Orleans, Louisiana;

that during the month of April 1950, the State of Louisiana was a State taxing the sale and use of cigarettes, and each of the said persons above-named to whom said shipments above-described were made was not, during said month, a distributor of cigarettes licensed by or a distributor of cigarettes located in said State of Louisiana; that the said Joseph H. Wilson did wilfully fail to forward to the tobacco tax administrator of the State of Louisiana, to-wit, the Collector of Revenue for the State of Louisiana at Baton Rouge in said State and within the jurisdiction of this Court, on May 10, 1950, or at any time prior thereto, a memorandum or copy of the invoice covering each of said shipments of cigarettes, stating the name and address of the person to
4 whom each shipment was made and the brand and quantity of cigarettes shipped.

Count 4. That during the month of May 1950, one Joseph H. Wilson, doing business under the trade name and style of "Cooperative Buying Service" in the Town of Murphy, in the State of North Carolina, did sell and dispose of cigarettes in interstate commerce whereby brands and quantities of cigarettes were shipped by him from said Town and State, to persons in the State of Louisiana at their respective places of residence, to-wit, as follows:

10 cartons of "Camel" cigarettes to Charles H. Arnold, 2642 Bruxelles Street, New Orleans, Louisiana;

5 cartons of "Pall Mall" and 5 cartons of "Chesterfield" cigarettes to Ara R. Beane, Post Office Box 8054, Gentilly, New Orleans, Louisiana;

10 cartons of "Camel" cigarettes to Steve M. Carra, 5760 Vicksburg Street, New Orleans, Louisiana;

that during the month of May 1950, the State of Louisiana was a State taxing the sale and use of cigarettes, and each of the said persons above-named to whom said shipments above-described were made was not, during said month, a distributor of cigarettes licensed by or a distributor of cigarettes located in said State of Louisiana; that the said Joseph H. Wilson did wilfully fail to forward to the tobacco tax administrator of the State of Louisiana, to-wit, the Collector of Revenue for the State of Louisiana at Baton Rouge in said State and within the jurisdiction of this Court, on June 10, 1950, or at any time prior thereto, a memorandum or copy of the invoice covering each of said shipments of cigarettes, stating the name and address of the person to whom each shipment was made and the brand and quantity of cigarettes shipped.

Count 5. That during the month of June 1950, one Joseph H. Wilson, doing business under the trade name and style of "Cooperative Buying Service" in the Town of Murphy, in the State of

North Carolina, did sell and dispose of cigarettes in interstate commerce whereby brands and quantities of cigarettes were shipped by him from said Town and State, to persons in the State of Louisiana at their respective places of residence, to-wit, as follows:

9 cartons of "Philip Morris" cigarettes to Elwood Guillot, 5611 Saint Claude Avenue, New Orleans, Louisiana;
6 cartons of "Camel" cigarettes to James Craven, 6202 Catina Street, New Orleans;

that during the month of June 1950, the State of Louisiana was a State taxing the sale and use of cigarettes, and each of the said persons above-named to whom said shipments above-described were made was not, during said month, a distributor of cigarettes licensed by or a distributor of cigarettes located in said State of Louisiana; that the said Joseph H. Wilson did wilfully fail to forward to the tobacco tax administrator of the State of Louisiana, to-wit, the Collector of Revenue for the State of Louisiana at Baton Rouge in said State and within the jurisdiction of this Court, on July 10, 1950, or at any time prior thereto, a memorandum or copy of the invoice covering each of said shipments of cigarettes, stating the name and address of the person to whom each shipment was made and the brand and quantity of cigarettes shipped.

A TRUE BILL

(sgd) HENRY WARNER, JR.,
Foreman.

August 17, 1950

(Sgd) N. E. SIMONEAUX,
Assistant United States Attorney.

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6 [MOTION OF DEFENDANT FOR ARRAIGNMENT IN DEFENDANT'S ABSENCE]

[omitted in printing]

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6 [EXHIBIT—STATEMENT OF DR. J. B. KILLEBREW]

[omitted in printing]

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8 [ARRAIGNMENT AND PLEA OF "NOT GUILTY"]

[omitted in printing]

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9 IN UNITED STATES DISTRICT COURT

[Title omitted]

Motion by Defendant, Joseph H Wilson, Doing Business Under the Trade Name and Style of "Cooperative Buying Service" to Dismiss the Indictment—Filed October 29, 1951

The defendant, Joseph H. Wilson, doing business under the trade name and style of "Cooperative Buying Service", moves that the indictment be dismissed on the following grounds:

1. The court is without jurisdiction because the offense, if any, was not committed in the Eastern District of Louisiana and prosecution under the indictment would be in contravention of rights guaranteed by Article 3, Section 2, Clause 3 of the Constitution, the Sixth Amendment of the Constitution and Rule 18 of the Federal Rules of Criminal Procedure.

(sgd) SAMUEL LANG
(sgd) H. L. MCKEEVER
(sgd) SUMTER D. MARKS, JR.

Of Counsel for the Defendant

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10 **[Motion and Order Transfering Case to New Orleans for Purposes of Arraignment Only]**

[omitted in printing]

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11 IN UNITED STATES DISTRICT COURT

Order Sustaining Motion to Dismiss—May 20th, 1952

The motions to dismiss the indictment filed in each of the above cases, came on this day to be heard;

Present: Edward J. Boyle,
Sumter D. Marks, Jr.
Hobart L. McKeever
Attorneys for defendant, movers;

Thomas C. Wickers, Jr.,
Asst. U. S. Attorney;

After hearing argument of counsel for the respective parties, and upon consideration thereof, for the reasons orally assigned,

IT IS ORDERED that the motions be sustained and that the indictments herein, be and the same are hereby, DISMISSED, as to movers herein.

CHRISTENBERRY, J.

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12 **Opinion on Motion to Dismiss—Filed May 26, 1952**

IN UNITED STATES DISTRICT COURT

* * * * * * * * * * * *

THE COURT: The Statute provides that any person selling or disposing of cigarettes in interstate commerce whereby such cigarettes are shipped to other than the distributor licensed by or located in the state taking the sale or use of cigarettes shall, not later than the tenth day of each month, forward to the Tobacco Tax Administrator of the state into which such shipment is made a memorandum or a copy of the invoice covering each and every such shipment of cigarettes made during the previous calendar month into said state, the memorandum or invoice in each case to include the name and address of the person to whom the shipment is made, the brand and quantity thereof. The duty imposed by the statute is the duty to forward to the Tobacco Tax Administrator this memorandum or report.

I think it is clear that the law is as stated in New York Central-Oxford New Haven Railroad vs. United States, 166 Federal 267, at 269. "When an offense consists of an omission to do an act required by law, the commission of the offense necessarily takes place where the act ought to have been done. I think it is very clear here that the act required to be done, namely, the act of forwarding, is required to be done at the place from which the cigarettes were shipped. I cannot conceive that the word "forwarding" has the same meaning or implications as the word "filing."

13 Where a report is to be filed, of course, it may only be filed at a particular place, usually the office of some public official, such as a tax collector, and the mere failure to send it from some other place would not fix the venue for such a failure at such other place. The cases have uniformly held that the failure to file must be prosecuted at the place at which the filing must have been accomplished.

Now, here the Statute does not say that the information must be furnished or that the report must be filed, but it simply says that it must be forwarded. As I have indicated previously, to my mind implicit in the word "forwarding" or the word "forward" is the proposition that some time will elapse between the forwarding and the receiving and also that some distance must be covered, intervening distance, between the forwarding and the receiving.

I think that it is the duty of the Court not to look for hidden meanings in words or attribute to them some unusual effect or connotation, nor should the Court attribute to Congress some vague or hidden intention with respect to the use of the words. In con-

struing statutes it is the duty of the Court to give to words of ordinary usage their common, ordinary, everyday meaning.

Therefore, I find that the motions should be granted; and the information should be dismissed as to the movers for the reason that venue is not properly laid in this District, and the offenses if offenses occurred, was committed at the place from which the cigarettes were sold.

I find further support for my views in this matter in the fact that the law provides that the report or memorandum must be sent within ten days after the end of the month, not later than the tenth day of each month, which would mean not later than ten days after the end of the preceding month. There is no stipulation, no provision as to when it shall be in the hands of the authorities.

Now, ordinarily where the duty is to file, the law fixes a definite time within which the filing must be accomplished so that the duty is the duty to perform an act at a particular place within a particular time. Here that time is fixed not later than the tenth of the month. So I think that that is very significant: you must forward the memorandum within that particular time and the law makes no provision with respect to the time within which it
14 must be received by the taxing authority.

Therefore, the motions are granted, and the indictments are dismissed as to the movers.

[Reporter's Certificate to foregoing paper omitted in printing.]

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15 IN UNITED STATES DISTRICT COURT

Notice of Appeal—Filed June 17, 1952

The United States hereby appeals to the Supreme Court of the United States from the order of the United States Disctrict Court for the Eastern District of Louisiana, entered May 20, 1952, dismissing the indictment in the above-entitled case.

Dated June 17 1952.

PHILIP B. PERLMAN,
Solicitor General,
Department of Justice,
Washington, D. C.

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26 **Acceptance of Service of Appeal Papers—Filed June 17, 1952**

[omitted in printing]

27 **Designation of Contents of Record—Filed June 17, 1952**

[omitted in printing]

28

[Clerk's Certificate to foregoing transcript omitted in printing.]

SUPREME COURT OF THE UNITED STATES

[Title omitted]

Statement of Points to be Relied Upon and Designation of Record—Filed October 3, 1952

Pursuant to Rule 13, paragraph 9, of this Court, appellant states that it intends to rely upon the following points:

1. The District Court erred in holding that, under the so-called Tobacco Tax Act, 63 Stat. 884, 15 U.S.C. 375, *et seq.*, the act of forwarding to the appropriate state official a memorandum or copy of invoice, as and when required by the Act, "is required to be done at the place from which the cigarettes were shipped," and in holding, accordingly, that venue of the offense of failure to "forward to" the appropriate official the memorandum or copy does not lie in the district of the place to which such memorandum or copy is to be forwarded.

2. The District Court erred in dismissing the indictment.

Appellant deems the entire record, as filed in the above-entitled cases, necessary for the consideration of the points relied upon, except that the following should be omitted:

1. Motion of defendant for arraignment in defendant's absence, and exhibit attached thereto (pp. 6-8).

2. Arraignment and plea (p. 8).

3. Motion for transfer of case from Baton Rouge Division to New Orleans Division for purpose of arraignment, and order so transferring (p. 10).

ROBERT L. STERN,
Acting Solicitor General.

October 31, 1952.

[File endorsement omitted]

SUPREME COURT OF THE UNITED STATES

No. 197 ————, October Term, 1952

[Title omitted]

Order Noting Probable Jurisdiction—October 13, 1952

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted. The case is consolidated for argument with No. 198 and transferred to the summary docket.

☆U.S. GOVERNMENT PRINTING OFFICE 1952—227395/P.O.858

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1952

No. 198

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

PURCHASING CORPORATION OF AMERICA, NORMAN W. RAIES, WILLIAM T. TWEEL AND MARY LOUISE HADDAD

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

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1 IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA, BATON ROUGE DIVISION

UNITED STATES OF AMERICA

VERSUS

PURCHASING CORPORATION OF AMERICA, ET AL.

No. 1214 Criminal

Appearances:

Philip B. Perlman,
Solicitor General
John N. McKay,
U. S. Attorney
Thomas C. Wicker, Jr.,
Asst. U. S. Attorney
Attorneys for United States

Edward J. Boyle, Esq.,
Samuel Lang, Esq.,
H. L. McKeever,
Sumter D. Marks, Jr.,
Attorneys for Defendants.

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2 **Indictment for Violation of the "Jenkins Act"—**
[Filed February 8, 1951]

(Vio. Public Law No. 363, 81st Congress, approved October 19, 1949)

[TITLE OMITTED]

The Grand Jury charges:

That at all times material hereto the defendant NORMAN W. RAIES was President and General Manager, defendant WILLIAM T. TWEEL was Secretary and Treasurer, and defendant MARY LOUISE HADDAD was Vice-President of defendant PURCHASING CORPORATION OF AMERICA, a corporation chartered in the State of Virginia with executive offices at Alexandria, Virginia.

That during the month of April 1950 PURCHASING CORPORATION OF AMERICA, NORMAN W. RAIES, WILLIAM T. TWEEL and MARY LOUISE HADDAD did sell and dispose of cigarettes in interstate com-

merce whereby quantities of various brands of cigarettes were shipped by them from the Cities of Charleston, in the State of West Virginia, and Asheville, in the State of North Carolina, to persons in the State of Louisiana at their respective places of residence, to-wit, as follows:

10 cartons of "Phillip Morris" cigarettes to
Lionel J. Cunningham,
217 Maple Ridge Drive,
New Orleans, Louisiana;

10 cartons of "Herbert Tareyton" cigarettes to
Maurice Brener,
1310 Richards Building,
New Orleans, Louisiana;

6 cartons of "Pall Mall" cigarettes to
Mrs. F. Beatrice Smith,
2931 Calhoun Street,
New Orleans, Louisiana;

8 cartons of "Herbert Tareyton" cigarettes to
Herbert W. Morgan,
305 Maritime Building,
New Orleans, Louisiana;

28 cartons of cigarettes consisting of quantities of the following brands, to-wit, "Raleigh", "Herbert Tareyton" and "Chesterfield", to

Peter R. Copping,
743 Baronne Street,
New Orleans, Louisiana;

that during the month of April 1950 the State of Louisiana
3 was a State taxing the sale and use of cigarettes, and each of the said persons above-named to whom said shipments above-described were made was not, during said month, a distributor of cigarettes licensed by or a distributor of cigarettes located in said State of Louisiana; that the said PURCHASING CORPORATION OF AMERICA, NORMAN W. RAIES, WILLIAM T. TWEEL and MARY LOUISE HADDAD did wilfully fail to forward to the Tobacco Tax Administrator of the State of Louisiana, to-wit, the Collector of Revenue for the State of Louisiana, at Baton Rouge, in said State, and within the jurisdiction of this Court, on May 10, 1950, or at any time prior thereto, a memorandum or copy of the invoice covering each of said shipments of cigarettes, stating the name and

address of the person to whom each shipment was made and the brand and quantity of cigarettes shipped.

A True Bill

(sgd) DAISY R. WHITLOW
Foreman

(Sgd) N. E. SIMONEAUX
Assistant United States Attorney.

A true bill
New Orleans, La.
February 8, 1951
(sgd) DAISY R. WHITLOW
Foreman

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4 **Notice to Defendant of Arraignment—(Filed: October 1, 1951)**

[OMITTED IN PRINTING]

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5 **Arraignment and Plea of "Not Guilty"**
[OMITTED IN PRINTING]

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6 IN UNITED STATES DISTRICT COURT

[TITLE OMITTED]

Motion by Defendant, Purchasing Corporation of America, to Dismiss the Indictment—(Filed: October 29, 1951)

The defendant, Purchasing Corporation of America, moves that the indictment be dismissed on the following grounds:

1. The Court is without jurisdiction because the offense, if any, was not committed in the Eastern District of Louisiana and prosecution under the indictment would be in contravention of rights guaranteed by Article 3, Section 2, Clause 3 of the Constitution, the Sixth Amendment of the Constitution and Rule 18 of the Federal Rules of Criminal Procedure.

(Sgd.) EDW. J. BOYLE
(Sgd.) SAMUEL LANG
(Sgd.) H. L. MCKEEVER
(Sgd.) SUMTER D. MARKS, JR.
Of Counsel for the Defendant

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7 **Motion and Order Transferring Case to New Orleans Division—(Filed: May 20, 1952)**

[OMITTED IN PRINTING]

8 IN UNITED STATES DISTRICT COURT

Order Sustaining Motion to Dismiss—May 20th, 1952

[TITLE OMITTED]

The motions to dismiss the indictment filed in each of the above cases, came on this day to be heard:

Present: Edward J. Boyle,
Sumter D. Marks, Jr.
Hobart L. McKeever,
Attorneys for defendants, movers;

Thomas C. Wicker, Jr.,
Asst. U. S. Attorney;

After hearing argument of counsel for the respective parties, and upon consideration thereof, for the reasons orally assigned,

IT IS ORDERED that the motions be sustained and that the indictments herein, be and the same are hereby, DISMISSED, as to movers herein.

CHRISTENBERRY, J:

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9 IN UNITED STATES DISTRICT COURT

[TITLE OMITTED]

Opinion on Motion to Dismiss—[Filed: May 26, 1952]

May 20, 1952

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THE COURT: The Statute provides that any person selling or disposing of cigarettes in interstate commerce whereby such cigarettes are shipped to other than the distributor licensed by or located in the state taking the sale or use of cigarettes shall, not later than the tenth day of each month, forward to the Tobacco Tax Administrator of the state into which such shipment is made a memorandum or a copy of the invoice covering each and every such shipment of cigarettes made during the previous calendar month into said state, the memorandum or invoice in each case to include the name and address of the person to whom the shipment is made, the brand and quantity thereof. The duty imposed by the statute is the duty to forward to the Tobacco Tax Administrator this memorandum or report.

I think it is clear that the law is as stated in New York Central-Oxford New Haven Railroad vs. United States, 166 Federal 267, at 269. "When an offense consists of an omission to do an act required by law, the commission of the offense necessarily takes

place where the act ought to have been done. I think it is very clear here that the act required to be done, namely, the act of forwarding, is required to be done at the place from which the cigarettes were shipped. I cannot conceive that the word "forwarding" has the same meaning or implications as the word "filing."

Where a report is to be filed, of course, it may only be
10 filed at a particular place, usually the office of some public official, such as a tax collector, and the mere failure to send it from some other place would not fix the venue for such a failure at such other place. The cases have uniformly held that the failure to file must be prosecuted at the place at which the filing must have been accomplished.

Now, here the Statute does not say that the information must be furnished or that the report must be filed, but it simply says that it must be forwarded. As I have indicated previously, to my mind implicit in the word "forwarding" or the word "forward" is the proposition that some time will elapse between the forwarding and the receiving and also that some distance must be covered, intervening distance, between the forwarding and the receiving.

I think that it is the duty of the Court not to look for hidden meanings in words or attribute to them some unusual effect or connotation, nor should the Court attribute to Congress some vague or hidden intention with respect to the use of words. In construing statutes it is the duty of the Court to give to words of ordinary usage their common, ordinary, everyday meaning.

Therefore, I find that the motions should be granted; and the informations should be dismissed as to the movers for the reason that venue is not properly laid in this District, and the offenses if offenses occurred, was committed at the place from which the cigarettes were sold.

I find further support for my views in this matter in the fact that the law provides that the report or memorandum must be sent within ten days after the end of the month, not later than the tenth day of each month, which would mean not later than ten days after the end of the preceding month. There is no stipulation, no provision as to when it shall be in the hands of the authorities.

Now, ordinarily where the duty is to file, the law fixes a definite time within which the filing must be accomplished so that the duty is the duty to perform an act at a particular place within a particular time. Here that time is fixed not later than the tenth of the month. So I think that that is very significant: you must forward the memorandum within that particular time and the law makes

no provision with respect to the time within which it must be
11 received by the taxing authority.

Therefore, the motions are granted, and the indictments are dismissed as to the movers.

[Reporter's Certificate to foregoing paper omitted in printing.]

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12 IN UNITED STATES DISTRICT COURT

[TITLE OMITTED]

Notice of Appeal—[Filed: June 17, 1952]

The United States hereby appeals to the Supreme Court of the United States from the order of the United States District Court for the Eastern District of Louisiana, entered May 20, 1952, dismissing the indictment in the above-entitled case.
Dated June 17, 1952.

(Sgd.) PHILIP B. PERLMAN
PHILIP B. PERLMAN,
Solicitor General,
Department of Justice,
Washington, D. C.

14-23 [Acceptance of service of appeal papers (omitted in printing)]

Designation of Contents of Record [Omitted in printing]

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25 [Clerk's Certificate to foregoing transcript omitted in printing.]

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26 SUPREME COURT OF THE UNITED STATES

[TITLE OMITTED]

Statement of Points to Be Relied Upon and Designation of Record—filed October 3, 1952

[File Endorsement Omitted]

Pursuant to Rule 13, paragraph 9, of this Court, appellant states that it intends to rely upon the following points:

1. The District Court erred in holding that, under the so-called Tobacco Tax Act, 63 Stat. 884, 15 U.S.C. 375, *et seq.*, the act of forwarding to the appropriate state official a memorandum or copy of invoice as and when required by the Act, "is required to be done at the place from which the cigarettes were shipped," and in holding, accordingly, that venue of the offense of failure to "forward to" the appropriate official the memorandum or copy does not lie in the district of the place to which such memorandum or copy is to be forwarded.

2. The District Court erred in dismissing the indictment.

Appellant deems the entire record, as filed in the above-entitled cases, necessary for the consideration of the points relied
27 upon, except that the following should be omitted:

1. Notice to defendant of arraignment (p. 4).

2. Arraignment and plea (p. 5).

3. Motion for transfer of case from Baton Rouge Division to New Orleans Division, and order so transferring (p. 7).

(Sgd.) ROBERT L. STERN
ROBERT L. STERN,
Acting Solicitor General.

OCTOBER 3, 1952.

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29 SUPREME COURT OF THE UNITED STATES

No. 198—October Term, 1952

[TITLE OMITTED]

Order Noting Probable Jurisdiction—October 13, 1952

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted. The case is consolidated for argument with No. 197 and transferred to the summary docket.

☆U. S. GOVERNMENT PRINTING OFFICE 1952—227596/P.O. 559